

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 2, 3, 5-8, and 25-35 are pending in this application, Claims 9-24 having been canceled without prejudice or disclaimer; and Claims 2, 3, 25, 27, and 29 having been currently amended; and Claims 33-35 having been added. Support for amended Claims 2, 3, 25, 27, and 29 can be found, for example, in the original claims, drawings, and specification as originally filed.¹ No new matter has been added.

In the outstanding Office Action, Claims 2, 3, 5-8 and 25-32 were rejected under 35 U.S.C. § 103(a) as unpatentable over Diaz (U.S. Patent No. 5,814,065) in view of Modesitt et al. (U.S. Patent No. 7,001,400; hereinafter “Modesitt”).

Applicants acknowledge with appreciation the courtesy of Examiner Yabut in granting an interview with Applicants’ representative on September 28, 2010, during which time the issues in the outstanding Office Action were discussed as substantially summarized hereinafter and also on the Interview Summary Sheet. No agreement was reached during the interview pending a formal response to the outstanding Office Action.

In regard to the rejection of Claims 2, 3, 5-8, and 25-32 under 35 U.S.C. § 103(a) as unpatentable over Diaz in view of Modesitt, Applicants respectfully submit that independent Claim 2 recites novel features clearly not taught or rendered obvious by the applied references.

Independent Claim 2 is directed to an organism tissue suturing apparatus including, *inter alia*,

...a body part, with a predetermined length, having a rotary portion and can be inserted into said tissue of said organism from said hole;

¹ See Figures 1-3; and page 18, lines 6 to page 19, line 3 of the specification.

two hollow needle members accommodated in a portion, inside said body part, rearward from said rotary portion;

a needle member operation portion for advancing said two hollow needle members toward said rotary portion from a side surface of said body part; and

two openings disposed at a rear-most portion of said body part and communicating with lumens of said two hollow needle members,

wherein said rotary portion has two needle member receiving portions for receiving a distal end of one of said hollow needle members and that of the other of said hollow needle members respectively pressed out of said body part, a connection duct communicating with said two needle member receiving portions, ***said rotary portion includes a thread pull-out slit extending from an upper surface thereof and communicating with said two needle member receiving portions and said connection duct, and the thread pull-out slit is formed in a direction to avoid that said thread pull-out slit is located at a front portion of said connection duct;*** and

one continuous duct for a suturing thread is formed to range from one of said two openings to the other of said openings through one of said lumens of one of said two hollow needle members, said connection duct of said rotary portion, and the other of said lumens of the other of said two hollow needle members, when said two needle member receiving portions receive said hollow needle members respectively at a same time.

Independent Claims 25, 27, and 29, although directed towards different statutory classes and differing claim scope, recite substantially similar features as independent Claim 2. Thus, the arguments presented below with respect to independent Claim 2 are also applicable to independent Claims 25, 27, and 29.

Applicants respectfully submit that the cited references fail to teach or suggest that “said rotary portion includes a thread pull-out slit extending from an upper surface thereof and communicating with said two needle member receiving portions and said connection

duct, and the *thread pull-out slit is formed in a direction to avoid that said thread pull-out slit is located at a front portion of said connection duct,*” as recited in Claim 2.

Diaz describes that a tip 36 is disposed near the distal end portion 18 of an elongated member 15 and includes needle lumen portions 38 aligned with needle lumens 28 in a transverse plane perpendicular to the longitudinal direction L, as shown in Figure 1.² Diaz also describes that the tip 36 is spaced apart from the elongated member 15 in the longitudinal direction L to form a recess 56 between the tip 36 and the elongated member 15.

Further, in Figure 1 of Diaz the needle lumen portions 38 formed in the tip 36 are located at a front portion of the needle lumen portion 38. A tip portion of a coil member 74 which enters the needle lumen portion 38 may crowd or consume a substantial amount of a communicating portion between the slit and the needle lumen portion 38. Thus, advancing the coil member 74 becomes more difficult. In addition, a suture 70 fixed to the coil member 74 might enter into the slit communicating to a needle lumen portion 38 when the coil member 74 is advanced in the needle lumen portion 38. As a result, the resistance involved in advancing the coil member 74 is increased. Consequently, in the suture delivery tool of Diaz, inserting the coil member 74 and the suture 70 fixed to the coil member is not easy.

In contrast, in Applicants’ organism tissue suturing apparatus recited in Claim 2, the thread pull-out slit is formed in a direction so that the thread pull-out slit is not located a front portion of the connection duct. Thus, a tip portion of a suturing member that enters into a connection duct does not easily fit into or crowd a communicating portion between the thread pull-out slit and the connection duct. Thus, a thread fixed to the suturing member does not easily enter into the thread pull-out slit. Therefore, in Applicants’ organism tissue suturing apparatus, a suturing member can easily be inserted into the connection duct and easily advanced into the connection duct.

² See column 4, lines 17-26 of Diaz.

In other words, because the thread pull-out slit of Diaz is present at the advancing direction of the suture 70 from the needle lumen 38, the device of Diaz has a greater tendency for the distal end of the coil 74 to lodge in the thread pull-out slit than in Applicants' invention.

Thus, Applicants respectfully submit that amended independent Claims 2, 25, 27, and 29 (and all claims depending thereon) patentably distinguish over Diaz. Further, as acknowledged during the interview, Modesitt fails to cure any of the above-noted deficiencies of Diaz.

Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 103(a) be withdrawn.

In order to vary the scope of protection recited in the claims, new Claims 33-35 are added. New Claims 33-35 find non-limiting support in the disclosure as originally filed, for example in Figures 1-3. Therefore, the changes to the claims are not believed to raise a question of new matter.³

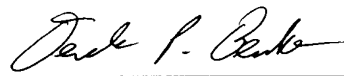
Consequently, in view of the present amendment, and in light of the above discussion, the pending claims as presented herewith are believed to be in condition for formal allowance, and an early and favorable action to that effect is respectfully requested.

³ See M.P.E.P. § 2163.06 stating that "information contained in any one of the specification, claims or drawings of the application as filed may be added to any other part of the application without introducing new matter."

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicant's undersigned representative at the below listed telephone number.

Respectfully submitted,

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